



# PUBLIC NOTICE

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DA 02-2383

## THE COLORADO PUBLIC UTILITIES COMMISSION PETITIONS TO REDEFINE THE SERVICE AREA OF DELTA COUNTY TELE-COMM, INC. IN THE STATE OF COLORADO

CC Docket No. 96-45

Release Date: September 25, 2002

Comment Date: October 15, 2002

Reply Comment Date: October 25, 2002

The Wireline Competition Bureau (Bureau) provides notice that the Colorado Public Utilities Commission (Colorado Commission) has filed a petition, pursuant to section 54.207 of the Commission's rules, requesting the Commission's agreement with the Colorado Commission's proposed "service area" definition for areas served by Delta County Tele-Comm, Inc. (Delta) within Colorado.<sup>1</sup> The Colorado Commission proposes to define Delta's service area as an area different from the study area of Delta for the purpose of determining federal universal service obligations and support mechanisms.<sup>2</sup> Specifically, the Colorado Commission proposes to designate each individual wire center of Delta as a separate service area.<sup>3</sup>

The Colorado Commission asserts that redefining Delta's service area in this way is consistent with Delta's recent election to disaggregate and target high-cost support to the wire center level pursuant to section 54.315(d) of the Commission's rules.<sup>4</sup> In response to section 54.315 of the Commission's rules and the *RTF Order*, the Colorado Commission recently adopted rules directing rural carriers to

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<sup>1</sup> *Petition by the Public Utilities Commission of the State of Colorado to Redefine the Service Area of Delta County Tele-Comm, Inc.*, CC Docket No. 96-45, filed on August 12, 2002 (Petition).

<sup>2</sup> See generally Petition.

<sup>3</sup> See Petition at 3.

<sup>4</sup> *Id.* at 1-5. Pursuant to section 54.315(d) of the Commission's rules, a rural carrier may self-certify that it has disaggregated support to the wire center level or into no more than two cost zones per wire center. 47 C.F.R. § 54.315(d). See also *Federal-State Joint Board on Universal Service, Multi-Association Group (MAG) Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers*, CC Docket Nos. 96-45, and 00-256, Fourteenth Report and Order, Twenty-Second Order on Reconsideration, and Further Notice of Proposed Rulemaking, and Report and Order, 16 FCC Rcd 11244, 11302-309 (2001) (*RTF Order*) (adopting three paths for the disaggregation and targeting of high-cost universal service support).

disaggregate universal service support under the paths of disaggregation established by the Commission.<sup>5</sup> The Colorado Commission's rules also provide that the disaggregation plans of each incumbent rural carrier will be used as a basis to redefine that carrier's service area.<sup>6</sup>

If this Commission does not act on the Petition within 90 days of the release of this Public Notice, the definition proposed by the Colorado Commission will be deemed approved by the Commission and shall take effect in accordance with state procedures.<sup>7</sup>

Commission Rules: For areas served by a rural telephone company, section 214(e)(5) of the Communications Act of 1934, as amended (the Act) provides that the company's service area will be its study area "unless and until the Commission and the States, after taking into account the recommendations of a Federal-State Joint Board instituted under section 410(c), establish a different definition of service area for such company."<sup>8</sup> Section 54.207 of the Commission's rules and the *Universal Service Order* set forth the procedures for consideration of petitions seeking to designate service areas for rural telephone companies that are different from such companies' study areas.<sup>9</sup>

Section 54.207(c)(3) of the Commission's rules provides that the Commission may initiate a proceeding to consider a petition to redefine the service area of a rural telephone company within ninety days of the release date of a Public Notice.<sup>10</sup> If the Commission initiates a proceeding to consider the petition, the proposed definition shall not take effect until both the state commission and the Commission agree upon the definition of a rural service area, in accordance with section 214(e)(5) of the Act.<sup>11</sup> If the Commission does not act on the petition within 90 days of the release date of the Public Notice, the definition proposed by the state commission will be deemed approved by the Commission and shall take effect in accordance with state procedures.<sup>12</sup> Under section 54.207(e) of the Commission's rules, the Commission delegates its authority under section 54.207(c) to the Chief of the Wireline Competition

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<sup>5</sup> See *Proposed Amendments to the Rules Concerning the Colorado High Cost Support Mechanism*, 4 CCR 723-41, and the *Rules Concerning Eligible Telecommunications Carriers*, 4 CCR 723-42, Decision No. C02-319, Docket No. 01R-434T (Colo. Comm'n Jan. 30, 2002) (adopting rules providing that a rural carrier's method for disaggregating universal service support shall also function as the method for redefining service areas). See also § 4 Colo. Code Regs. §§ 723-42-110, 723-42-11 (2002); Petition at 5-7 & Attachment 3.

<sup>6</sup> *Id.*

<sup>7</sup> See 47 C.F.R. § 54.207(c)(3)(ii).

<sup>8</sup> See 47 U.S.C. § 214(e)(5).

<sup>9</sup> See 47 C.F.R. § 54.207(c). Specifically, section 54.207(c)(1) provides that such a petition shall contain: (i) the definition proposed by the state commission; and (ii) the state commission's ruling or other official statement presenting the state commission's reason for adopting its proposed definition, including an analysis that takes into account the recommendations of any Federal-State Joint Board convened to provide recommendations with respect to the definition of a service area served by a rural telephone company. See also *Federal-State Joint Board on Universal Service*, Report and Order, CC Docket No. 96-45, 12 FCC Rcd 8776, 8881, para. 188 (1997) (*Universal Service Order*) (subseq. history omitted).

<sup>10</sup> 47 C.F.R. § 54.207(c)(3).

<sup>11</sup> See 47 C.F.R. § 54.207(c)(3)(i); 47 U.S.C. § 214(e)(5).

<sup>12</sup> See 47 C.F.R. § 54.207(c)(3)(ii).

Bureau.<sup>13</sup>

Pursuant to Sections 1.415 and 1.419 of the Commission's rules, 47 C.F.R. §§ 1.415, 1.419, interested parties may file comments on or before **October 15, 2002**, and reply comments on or before **October 25, 2002**. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies.<sup>14</sup>

Comments filed through the ECFS can be sent as an electronic file via the Internet to <<http://www.fcc.gov/e-file/ecfs.html>>. Generally, only one copy of an electronic submission must be filed. If multiple docket or rulemaking numbers appear in the caption of this proceeding, however, commenters must transmit one electronic copy of the comments to each docket or rulemaking number referenced in the caption. In completing the transmittal screen, commenters should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to [ecfs@fcc.gov](mailto:ecfs@fcc.gov), and should include the following words in the body of the message, "get form <your e-mail address>." A sample form and directions will be sent in reply.

Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appear in the caption of this proceeding, commenters must submit two additional copies for each additional docket or rulemaking number. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). The Commission's contractor, Vistrionix, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, N.E., Suite 110, Washington, D.C. 20002. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, SW, Washington, D.C. 20554. All filings must be addressed to the Marlene H. Dortch, Office of the Secretary, Federal Communications Commission.

Parties also must send three paper copies of their filing to Sheryl Todd, Telecommunications Access Policy Division, Wireline Competition Bureau, Federal Communications Commission, 445 12th Street, S.W., Room 5-B540, Washington, D.C. 20554. In addition, commenters must send diskette copies to the Commission's copy contractor, Qualex International, Portals II, 445 12th Street, S.W., Room CY-B402, Washington, D.C. 20554.

Pursuant to section 1.1206 of the Commission's rules, 47 C.F.R. § 1.1206, this proceeding will be conducted as a permit-but-disclose proceeding in which ex parte communications are permitted subject to disclosure. For further information, contact Anita Cheng, Telecommunications Access Policy Division, Wireline Competition Bureau at (202) 418-7400, TTY (202) 418-0484.

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<sup>13</sup> 47 C.F.R. § 54.207(e).

<sup>14</sup> See Electronic Filing of Documents in Rulemaking Proceedings, 63 Fed. Reg. 24121 (1998).